



INTERIOR BOARD OF INDIAN APPEALS

David Creasey v. Northwest Regional Director, Bureau of Indian Affairs

38 IBIA 242 (12/18/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

DAVID CREASEY,
Appellant

v.

NORTHWEST REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Docketing and Dismissing
: Appeal
:
:
: Docket No. IBIA 03-34-A
:
:
: December 18, 2002

This is an appeal from the October 16, 2002, approval by the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), of an Indian Self-Determination Act (ISDA) contract under which the Shoshone-Bannock Tribes of the Fort Hall Reservation (Tribe) contracted to perform BIA's range management program on the reservation. Appellant David Creasey is a member of the Tribe, an owner of trust land on the reservation, and a holder of grazing permits on the reservation. He states that he is appealing individually and on behalf of the Indian Stockmen's Association of the Fort Hall Reservation. He contends that the Tribe's Business Council lacked authority to enter into the contract because of a moratorium on ISDA contracting imposed by the tribal membership in 1999.

On November 13, 2002, the Board ordered Appellant to show why his appeal should not be dismissed on the basis of the Board's decisions in Chehalis Tribe v. Portland Area Director, 34 IBIA 100 (1999), and Yeahquo v. Southern Plains Regional Director, 36 IBIA 11 (2001). In Chehalis Tribe, the Board held that ISDA does not give an individual Indian landowner an explicit or implicit right to file an administrative appeal from the award of an ISDA contract, even where the landowner would be affected by the contract. Yeahquo is one of a number of decisions in which the Board has held that tribal members who seek to challenge the validity of a tribal action must do so in a tribal forum, rather than before the Board.

In his response to the Board's order, Appellant contends that his appeal may be distinguished from both Chehalis Tribe and Yeahquo in that he is challenging the legal authority of BIA to award the ISDA contract. He concedes, however, that his challenge to BIA's authority is based upon the premise that, as a matter of tribal law, the Business Council lacked authority to enter into the contract.

Appellant's response confirms the Board's initial impression that Appellant is attempting to challenge an action taken by the Business Council. Under Yeahquo and similar cases, Appellant's challenge to the validity of the Business Council's action must be brought in a tribal forum.

Further, nothing in Appellant's response overcomes the Board's conclusion in Chehalis Tribe that Congress did not intend in ISDA to authorize individual challenges to the award of ISDA contracts. Such challenges, the Board observed, "would undermine the self-determination objectives of ISDA, as well as its specific, time-limited declination procedures." 34 IBIA at 110.

The Board finds that Appellant lacks standing to challenge BIA's award of an ISDA contract to the Tribe.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but is dismissed for lack of standing.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge